

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**KATHRYN ANN ORTEGA
A.K.A. KATHRYN ANN MANCARUSO
A.K.A. KATHRYN ANN LYNCH
23921 Fambrough Street
Santa Clarita, CA 91321**

Registered Nurse License No. 402428

Respondent

Case No. 2012-639

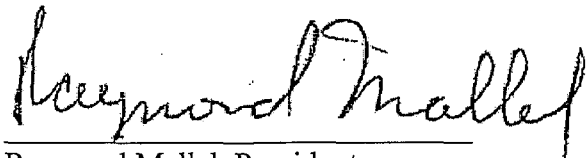
OAH No. 2012051178

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 4, 2013.**

IT IS SO ORDERED **February 2, 2013.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
Deputy Attorney General
4 State Bar No. 223418
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2574
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-639

12 **KATHRYN ANN ORTEGA, a.k.a**
13 **KATHRYN ANN MANCARUSO, a.k.a.**
14 **KATHRYN ANN LYNCH**

OAH No. 2012051178

15 **23921 Fambrough Street**
Santa Clarita, CA 91321
16 **Registered Nurse License No. 402428**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 Respondent.
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
23 Registered Nursing. She brought this action solely in her official capacity and is represented in
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Heather Hua,
25 Deputy Attorney General.

26 2. Respondent Kathryn Ann Ortega, a.k.a. Kathryn Ann Mancaruso, a.k.a. Kathryn Ann
27 Lynch (Respondent) is represented in this proceeding by attorney Theodore Cohen, whose
28 address is: 3550 Wilshire Blvd., Suite 1280, Los Angeles, CA 90010.

1 3. On or about August 31, 1985, the Board of Registered Nursing issued Registered
2 Nurse License No. 402428 to Respondent. The Registered Nurse License was in full force and
3 effect at all times relevant to the charges brought in Accusation No. 2012-639 and will expire on
4 July 31, 2014, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 2012-639 was filed before the Board of Registered Nursing (Board),
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and all other statutorily required documents were properly served on Respondent on April 17,
9 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 2012-639 is attached as Exhibit A and incorporated herein
11 by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 2012-639. Respondent has also carefully read, fully
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
16 Order.

17 7. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
21 compel the attendance of witnesses and the production of documents; the right to reconsideration
22 and court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

26 **CULPABILITY**

27 9. Respondent admits the truth of each and every charge and allegation in Accusation
28 No. 2012-639.

1 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
2 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
5 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
6 Registered Nursing may communicate directly with the Board regarding this stipulation and
7 settlement, without notice to or participation by Respondent or her counsel. By signing the
8 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
9 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
10 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
11 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
12 action between the parties, and the Board shall not be disqualified from further action by having
13 considered this matter.

14 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
15 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
16 effect as the originals.

17 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
20 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
21 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
22 writing executed by an authorized representative of each of the parties.

23 14. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

Upon successful completion of probation, Respondent's license shall be fully restored.

4

1 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
2 practice as a registered nurse outside of California shall not apply toward a reduction of this
3 probation time period. Respondent's probation is tolled, if and when she resides outside of
4 California. Respondent must provide written notice to the Board within 15 days of any change of
5 residency or practice outside the state, and within 30 days prior to re-establishing residency or
6 returning to practice in this state.

7 Respondent shall provide a list of all states and territories where she has ever been licensed
8 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
9 information regarding the status of each license and any changes in such license status during the
10 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
11 license during the term of probation.

12 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
13 or cause to be submitted such written reports/declarations and verification of actions under
14 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
15 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
16 Respondent shall immediately execute all release of information forms as may be required by the
17 Board or its representatives.

18 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
19 state and territory in which she has a registered nurse license.

20 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
21 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
22 6 consecutive months or as determined by the Board.

23 For purposes of compliance with the section, "engage in the practice of registered nursing"
24 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
25 non-direct patient care position that requires licensure as a registered nurse.

26 The Board may require that advanced practice nurses engage in advanced practice nursing
27 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

28 If Respondent has not complied with this condition during the probationary term, and

1 Respondent has presented sufficient documentation of her good faith efforts to comply with this
2 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
3 extension of Respondent's probation period up to one year without further hearing in order to
4 comply with this condition. During the one year extension, all original conditions of probation
5 shall apply.

6 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
7 prior approval from the Board before commencing or continuing any employment, paid or
8 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
9 performance evaluations and other employment related reports as a registered nurse upon request
10 of the Board.

11 Respondent shall provide a copy of this Decision to her employer and immediate
12 supervisors prior to commencement of any nursing or other health care related employment.

13 In addition to the above, Respondent shall notify the Board in writing within seventy-two
14 (72) hours after she obtains any nursing or other health care related employment. Respondent
15 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
16 separated, regardless of cause, from any nursing, or other health care related employment with a
17 full explanation of the circumstances surrounding the termination or separation.

18 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
19 Respondent's level of supervision and/or collaboration before commencing or continuing any
20 employment as a registered nurse, or education and training that includes patient care.

21 Respondent shall practice only under the direct supervision of a registered nurse in good
22 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
23 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
24 approved.

25 Respondent's level of supervision and/or collaboration may include, but is not limited to the
26 following:

27 (a) Maximum - The individual providing supervision and/or collaboration is present in
28 the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
2 care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
4 person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health care
6 setting, the individual providing supervision and/or collaboration shall have person-to-person
7 communication with Respondent as required by the Board each work day. Respondent shall
8 maintain telephone or other telecommunication contact with the individual providing supervision
9 and/or collaboration as required by the Board during each work day. The individual providing
10 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
11 patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
13 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
14 or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
16 registered nursing supervision and other protections for home visits have been approved by the
17 Board. Respondent shall not work in any other registered nursing occupation where home visits
18 are required.

19 Respondent shall not work in any health care setting as a supervisor of registered nurses.
20 The Board may additionally restrict Respondent from supervising licensed vocational nurses
21 and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing or as an
23 instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
27 request documentation to determine whether there should be restrictions on the hours of work.

28 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and

1 successfully complete a course(s) relevant to the practice of registered nursing no later than six
2 months prior to the end of her probationary term.

3 Respondent shall obtain prior approval from the Board before enrolling in the course(s).

4 Respondent shall submit to the Board the original transcripts or certificates of completion for the
5 above required course(s). The Board shall return the original documents to Respondent after
6 photocopying them for its records.

7 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
8 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
9 amount of six thousand two hundred two dollars (\$6,202.00). Respondent shall be permitted to
10 pay these costs in a payment plan approved by the Board, with payments to be completed no later
11 than three months prior to the end of the probation term.

12 If Respondent has not complied with this condition during the probationary term, and
13 Respondent has presented sufficient documentation of her good faith efforts to comply with this
14 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
15 extension of Respondent's probation period up to one year without further hearing in order to
16 comply with this condition. During the one year extension, all original conditions of probation
17 will apply.

18 12. **Violation of Probation.** If Respondent violates the conditions of her probation, the
19 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
20 and impose the stayed discipline (revocation/suspension) of Respondent's license.

21 If during the period of probation, an accusation or petition to revoke probation has been
22 filed against Respondent's license or the Attorney General's Office has been requested to prepare
23 an accusation or petition to revoke probation against Respondent's license, the probationary
24 period shall automatically be extended and shall not expire until the accusation or petition has
25 been acted upon by the Board.

26 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
27 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
28 Respondent may surrender her license to the Board. The Board reserves the right to evaluate

1 Respondent's request and to exercise its discretion whether to grant the request, or to take any
2 other action deemed appropriate and reasonable under the circumstances, without further hearing.
3 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
4 subject to the conditions of probation.

5 Surrender of Respondent's license shall be considered a disciplinary action and shall
6 become a part of Respondent's license history with the Board. A registered nurse whose license
7 has been surrendered may petition the Board for reinstatement no sooner than the following
8 minimum periods from the effective date of the disciplinary decision:

9 (1) Two years for reinstatement of a license that was surrendered for any reason other
10 than a mental or physical illness; or

11 (2) One year for a license surrendered for a mental or physical illness.

12 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
13 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
14 assistant, who is approved by the Board before the assessment is performed, submit an
15 assessment of the Respondent's physical condition and capability to perform the duties of a
16 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
17 medically determined, a recommended treatment program will be instituted and followed by the
18 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
19 to the Board on forms provided by the Board.

20 If Respondent is determined to be unable to practice safely as a registered nurse, the
21 licensed physician, nurse practitioner, or physician assistant making this determination shall
22 immediately notify the Board and Respondent by telephone, and the Board shall request that the
23 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
24 immediately cease practice and shall not resume practice until notified by the Board. During this
25 period of suspension, Respondent shall not engage in any practice for which a license issued by
26 the Board is required until the Board has notified Respondent that a medical determination
27 permits Respondent to resume practice. This period of suspension will not apply to the reduction
28 of this probationary time period.

1 If Respondent fails to have the above assessment submitted to the Board within the 45-day
2 requirement, Respondent shall immediately cease practice and shall not resume practice until
3 notified by the Board. This period of suspension will not apply to the reduction of this
4 probationary time period. The Board may waive or postpone this suspension only if significant,
5 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
6 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
7 Only one such waiver or extension may be permitted.

8 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

9 Respondent, at her expense, shall successfully complete during the probationary period or shall
10 have successfully completed prior to commencement of probation a Board-approved
11 treatment/rehabilitation program of at least six months duration. As required, reports shall be
12 submitted by the program on forms provided by the Board. If Respondent has not completed a
13 Board-approved treatment/rehabilitation program prior to commencement of probation,
14 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
15 If a program is not successfully completed within the first nine months of probation, the Board
16 shall consider Respondent in violation of probation.

17 Based on Board recommendation, each week Respondent shall be required to attend at least
18 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
19 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
20 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
21 added. Respondent shall submit dated and signed documentation confirming such attendance to
22 the Board during the entire period of probation. Respondent shall continue with the recovery plan
23 recommended by the treatment/rehabilitation program or a licensed mental health examiner
24 and/or other ongoing recovery groups.

25 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
26 completely abstain from the possession, injection or consumption by any route of all controlled
27 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
28 are ordered by a health care professional legally authorized to do so as part of documented

1 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
2 days, by the prescribing health professional, a report identifying the medication, dosage, the date
3 the medication was prescribed, the Respondent's prognosis, the date the medication will no
4 longer be required, and the effect on the recovery plan, if appropriate.

5 Respondent shall identify for the Board a single physician, nurse practitioner or physician
6 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
7 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
8 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
9 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
10 considered addictive have been prescribed, the report shall identify a program for the time limited
11 use of any such substances.

12 The Board may require the single coordinating physician, nurse practitioner, or physician
13 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
14 medicine.

15 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
16 random, biological fluid testing or a drug screening program which the Board approves. The
17 length of time and frequency will be subject to approval by the Board. Respondent is responsible
18 for keeping the Board informed of Respondent's current telephone number at all times.
19 Respondent shall also ensure that messages may be left at the telephone number when she is not
20 available and ensure that reports are submitted directly by the testing agency to the Board, as
21 directed. Any confirmed positive finding shall be reported immediately to the Board by the
22 program and Respondent shall be considered in violation of probation.

23 In addition, Respondent, at any time during the period of probation, shall fully cooperate
24 with the Board or any of its representatives, and shall, when requested, submit to such tests and
25 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
26 hypnotics, dangerous drugs, or other controlled substances.

27 If Respondent has a positive drug screen for any substance not legally authorized and not
28 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board

1 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
2 practice pending the final decision on the petition to revoke probation or the accusation. This
3 period of suspension will not apply to the reduction of this probationary time period.

4 If Respondent fails to participate in a random, biological fluid testing or drug screening
5 program within the specified time frame, Respondent shall immediately cease practice and shall
6 not resume practice until notified by the Board. After taking into account documented evidence
7 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
8 suspend Respondent from practice pending the final decision on the petition to revoke probation
9 or the accusation. This period of suspension will not apply to the reduction of this probationary
10 time period.

11 **18. Mental Health Examination.** Respondent shall, within 45 days of the effective date
12 of this Decision, have a mental health examination including psychological testing as appropriate
13 to determine her capability to perform the duties of a registered nurse. The examination will be
14 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
15 the Board. The examining mental health practitioner will submit a written report of that
16 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
17 Recommendations for treatment, therapy or counseling made as a result of the mental health
18 examination will be instituted and followed by Respondent.

19 If Respondent is determined to be unable to practice safely as a registered nurse, the
20 licensed mental health care practitioner making this determination shall immediately notify the
21 Board and Respondent by telephone, and the Board shall request that the Attorney General's
22 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
23 practice and may not resume practice until notified by the Board. During this period of
24 suspension, Respondent shall not engage in any practice for which a license issued by the Board
25 is required, until the Board has notified Respondent that a mental health determination permits
26 Respondent to resume practice. This period of suspension will not apply to the reduction of this
27 probationary time period.

28 If Respondent fails to have the above assessment submitted to the Board within the 45-day

1 requirement, Respondent shall immediately cease practice and shall not resume practice until
2 notified by the Board. This period of suspension will not apply to the reduction of this
3 probationary time period. The Board may waive or postpone this suspension only if significant,
4 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
5 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
6 Only one such waiver or extension may be permitted.

7 19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in
8 an on-going counseling program until such time as the Board releases her from this requirement
9 and only upon the recommendation of the counselor. Written progress reports from the counselor
10 will be required at various intervals.

11 **ACCEPTANCE**

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Theodore Cohen, Esq. I understand the stipulation and the effect it
14 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
15 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
16 Decision and Order of the Board of Registered Nursing.

17
18
19 DATED: 9/18/12

Kathryn Ann Ortega
KATHRYN ANN ORTEGA
Respondent

21
22 I have read and fully discussed with Respondent Kathryn Ann Ortega the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25
26 DATED: 9/18/12

Theodore Cohen, Esq.
THEODORE COHEN, Esq.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: *September 28, 2012*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

LA2011601133
51155610.doc

Exhibit A

Accusation No. 2012-639

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
Deputy Attorney General
4 State Bar No. 223418
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2574
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-639

13 **KATHRYN ANN ORTEGA**
a.k.a., **KATHRYN ANN MANCARUSO**
14 a.k.a., **KATHRYN ANN LYNCH**
a.k.a., **KATHY ORTEGA**
23921 Fambrough Street
Santa Clarita, CA 91321

15 **A C C U S A T I O N**

16 Registered Nurse License No. 402428

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 31, 1985, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 402428 to Kathryn Ann Ortega, also known as Kathryn Ann
25 Mancaruso, Kathryn Ann Lynch, and Kathy Ortega (Respondent). The Registered Nurse License
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 July 31, 2012, unless renewed.

28 ///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3

4

5

6
7
8
.
9

- 0
- 1
- 2
- 3

4
5
6
7
8
9

0
1
2

3

4
5

6

7

8

1 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be
3 conclusive evidence thereof."

4 7. Section 2762 states, in pertinent part:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

8

9 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
16 or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof."

19 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
20 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
21 to render a decision imposing discipline on the license.

22 REGULATORY PROVISIONS

23 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

24 "A conviction or act shall be considered to be substantially related to the qualifications,
25 functions or duties of a registered nurse if to a substantial degree it evidences the present or
26 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
27 safety, or welfare."

28 ///

1 **COST RECOVERY**

2 10. Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Substantially Related Crime)**

8 15. Respondent is subject to disciplinary action under sections 2761, subdivision (f) and
9 490, in conjunction with California Code of Regulations, title 16, section 1444, in that
10 Respondent has been convicted of a crime substantially related to the qualifications, functions,
11 and duties of a registered nurse. On or about September 7, 2010, after pleading nolo contendere,
12 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152,
13 subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in her blood] in the
14 criminal proceeding entitled *The People of the State of California v. Kathryn Ann Ortega* (Super.
15 Ct. Los Angeles County, 2010, No. 0NW02431). Respondent admitted to the court that her
16 concentration of blood alcohol was 0.15 by weight and more within the meaning of vehicle code
17 section 23578. The Court placed Respondent on 36 months probation, with terms and conditions.
18 Respondent was ordered to complete a 6-month First Time Offender Program.

19 The circumstances surrounding the conviction are that on or about June 4, 2010,
20 Respondent drove a vehicle while having 0.08% and more, by weight, of alcohol in her blood.
21 While speaking to Respondent, the Los Angeles County Sheriff's Department Officer observed
22 her to have bloodshot, watery, and glassy eyes, her face had a blank hypnotic-like stare, and she
23 avoided eye contact. During the booking procedure, Respondent submitted to a breath alcohol
24 screening that resulted in a breath-alcohol content level of 0.21% on the first reading and 0.20%
25 on the second reading.

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

16
17
18
19
20
21
22
23
24
25
26
27
28

17
18
19
20
21
22
23
24
25
26
27
28

- 19
20
21
22
23
24
25
26
27
28

24
25
26
27
28

25
26
27
28

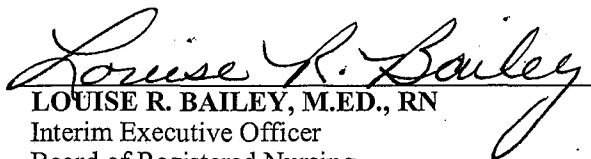
26
27
28

27
28

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: April 17, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2011601133 / 51038012.doc